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In re Application of : DECISION ON PETITION
Masanori Omote : TO RE-MAIL AND RESTART
Application No. 10/551,393 : RESPONSE PERIOD FOR
Filed: June 30, 2006 : NON-RECEIVED OFFICE ACTION
For: ROBOT DEVICE, INFORMATION
PROCESSING METHOD, AND PROGRAM

This is in response to applicant's petition to Re-mail and Reset a Period for Reply Due to non-receipt, filed in the United States Patent and Trademark Office (USPTO) on April 23, 2010.

The petition is **DISMISSED**.

Petitioner asserts that the Office action having a mail date of February 5, 2010 was not received at the correspondence address of record. The applicant indicates that the Office action in question was discovered during a PAIR on-line transaction history review on April 22, 2010. As applicant never received the mailed copy of the Office action, the petition is being treated as a petition to restart the time period for response due to non-receipt of an Office communication. The applicant asks that the non-final Office action be re-mailed with a new response period.

There is a strong presumption that an Office action properly addressed and delivered to the United States Postal Services, was in fact delivered to the addressee. An allegation that the Office action was not received must be supported by a showing that it was not received.

The showing required to establish non-receipt of an Office action must include all of the following requirements:

- (1) A statement from the practitioner stating the Office action was not received by the practitioner;
- (2) A statement attesting to the fact that a search of the file jacket and docket records indicates that the Office action was not received; and

(3) A copy of the docket record where the non-received Office action would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement.

The docket records indicated above must include a copy of the list of all responses in the practitioner's office with the due date at and around May 5, 2010. See Notice entitled "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 O.G.53 (November 16, 1993).

Applicant's petition fails to include 3) a copy of the docket record where the non-received Office action would have been entered had it been received and docketed. The submitted log of incoming mail does not qualify as a copy of the above required docket record.

The time period for response to the Office action of February 5, 2010 continues to run 3 months from that date.

Any questions regarding this decision should be directed to Steven N. Meyers at (571) 272-6611.



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Sm/sm: 6/21/10